BILL NO. S-83-07- 33

SPECIAL ORDINANCE NO. S-153-83

AN ORDINANCE approving a Contract by the City of Fort Wayne by and through its Board of Public Works and Hipskind Concrete Corporation, for Res. #5983-83, Memorial Park Neighborhood, Phase II.

NOW, THEREFORE, BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF FORT WAYNE, INDIANA:

SECTION 1. The annexed Contract, made a part hereof, by the City of Fort Wayne by and through its Board of Public Works and Hipskind Concrete Corporation, for Res. #5983-83, Memorial Park Neighborhood, Phase II, is hereby ratified, and affirmed and approved in all respects. The work under said Contract requires:

improvement of curbs, sidewalks and drive approaches where necessary as follows: RANDALL ST. - Both sides from Grant Ave. to Glasgow Ave.; GRANT AVE. - Both sides from Maumee Ave. to Humphrey St.;

the Contract price is Forty-Eight Thousand Four Hundred Thirteen and 40/100 Dollars ($48,413.40).

SECTION 2. Prior Approval was received from Council with respect to this Contract on June 14, 1983. Two (2) copies of the Contract attached hereto are on file with the City Clerk, and are available for public inspection.

SECTION 3. That this Ordinance shall be in full force and effect from and after its passage and any and all necessary approval by the Mayor.

Samuel J. Talarico
Councilmember

APPROVED AS TO FORM
AND LEGALITY

Bruce O. Boxberger, City Attorney

Read the first time in full and on motion by Talarico, seconded by GiaQuinta, and duly adopted, read the second time by title and referred to the Committee Public Works (and the City Plan Commission for recommendation) ~~and Public Hearing to be held~~ after due legal notice, at the Council Chambers, City-County Building, Fort Wayne, Indiana, on ______, the ______ day of ______, 19___, at ______ o'clock ___.M., E.S.T.

DATE: 7-26-83

Sandra E. Kennedy
CITY CLERK

Read the third time in full and on motion by Scruggs, seconded by Stier, and duly adopted, placed on its passage. PASSED ~~(LOST)~~ by the following vote:

	AYES	NAYS	ABSTAINED	ABSENT	TO-WIT:
TOTAL VOTES	8			1	
BRADBURY	✓				
BURNS	✓				
EISBART	✓				
GiaQUINTA	✓				
SCHMIDT	✓				
SCHOMBURG	✓				
SCRUGGS	✓				
STIER	✓				
TALARICO				✓	

DATE: 8-9-83

Sandra E Kennedy
CITY CLERK

Passed and adopted by the Common Council of the City of Fort Wayne, Indiana, as ~~(ZONING MAP)~~ ~~(GENERAL)~~ ~~(ANNEXATION)~~ (SPECIAL) ~~(APPROPRIATION)~~ ORDINANCE ~~(RESOLUTION)~~ NO. S-153-83 on the 9th day of August, 19 83.

ATTEST: (SEAL)

Sandra E. Kennedy
CITY CLERK

Ray A Eisbart
PRESIDING OFFICER

Presented by me to the Mayor of the City of Fort Wayne, Indiana, on the 10th day of August, 19 83, at the hour of 11:00 o'clock A .M., E.S.T.

Sandra E. Kennedy
CITY CLERK

Approved and signed by me this 15th day of August 19 83, at the hour of 9 o'clock A .M., E.S.T.

[signature]
WIN MOSES, JR. - MAYOR

CITY PAID
SUBJECT TO COUNCILMANIC APPROVAL
PRELIMINARY MEETING July 26, 1983
RATIFICATION August 9, 1983

CONTRACT

73-101-25
7/6/83

This Agreement, made and entered into this 6th day of July, 1983.

by and between --------------- HIPSKIND CONCRETE CORPORATION ------------------

--------------- 5502 MASON DRIVE, FORT WAYNE, INDIANA ----------------------

hereinafter called "Contractor" and the City of Fort Wayne, Indiana, a municipal corporation, hereinafter called "City," under and by virtue of an act of the General Assembly of the State of Indiana, entitled "An Act Concerning Municipal Corporations," approved March 6, 1905, and all amendatory and supplementary acts thereto, WITNESSETH: That the Contractor covenants and agrees to im-
Improvement Resolution No. 5983-83 MEMORIAL PARK NEIGHBORHOOD, PHASE II
prove curbs, sidewalks, and drive approaches where necessary as follows:
RANDALL ST. - Both sides from Grant Ave. to Glasgow Ave.; GRANT AVE. - Both sides from Maumee Ave. to Humphrey St.

by grading and paving the roadway to a width of ~~XXXXXXXXXXXXXfeetXwithXXXXXXXXXXXXXXXXXXXXXXX~~

~~XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX~~

upon a foundation and with curbing as fully set out in the specifications hereinafter referred to, in a good and workmanlike manner and to the entire satisfaction of said City, in accordance with Improvement Resolution No. 5983-83 ~~xandxatxthexfollowingxpricexperxlinealxfootxx~~

At the following prices:

Curb Removal	One dollar and twenty cents per lineal foot	1.20
Concrete Removal	Two dollars and no cents per square yard	2.00
Common Excavation	Three dollars and no cents per cubic yard	3.00
Tree Removal	Two hundred dollars and no cents per each	200.00
2' Curbface Walk	Two dollars and eighty cents per square foot	2.80
6' Curbface Walk	One dollar and seventy cents per square foot	1.70
4" Walk	One dollar and forty cents per square foot	1.40
6" Wingwalk w/Ramp	One dollar and seventy-five cents per square foot	1.75
Steps	Forty dollars and no cents per each	40.00
Backfill for Seed	One dollar and no cents per ton	1.00
Seed, Mulch & Fertilizer	No dollars and fifty cents per square yard	0.50
Asphalt Patching	No dollars and ten cents per lineal foot	0.10
8" Alley/Drive Approach	Seventeen dollars and fifty cents per square yard	17.50

The Contractor hereby expressly agrees to perform all the work in the prosecution of the above described improvement according to the terms and conditions of Improvement Resolution No. 5983-83 the plans, profiles, specifications and the contractor's bid therefor on file in the office of the Department of Public Works of said City, which said resolution, profile, plans and specifications are made a part of this contract as fully and effectually as if copied herein at full length, (copies of which are attached hereto).

It is hereby agreed that no assignment of this contract shall be made without the written consent of the City; said Contractor hereby covenants and agrees that said improvement shall be finally
*See Liquidated Damages Provision.
and in all respects completed on or before *Sept. 30, 19 83 and the Contractor agrees to pay and give to the City, as liquidated damages, the sum of $25.00 for each and every day after said Date __________, 19___ until said work is finally completed and ready for acceptance by the City. It being also understood that in event of any conflict between this contract and the specifications, that the former shall be considered to contain the intention of the parties hereto.

It is further agreed by and between said parties, that the acceptance of the work provided for in this contract, or the payment therefor, for the whole or a part, shall not constitute a waiver on the part of the City of any of the provisions of the contract, nor shall it release said Contractor, or the sureties upon its bond for the faithful performance thereof, nor shall the acceptance be even prima facie evidence of the performance of any provisions of such contract except to the extent of entitling said Contractor to receive the price therefor. It is further understood that the failure of the City to exercise its right of inspection or rejection of material and work, or the exercise of such right shall not in any sense be considered an acceptance of any part of said work or material.

The Contractor further contracts and agrees that in the prosecution of said work all proper skill and care will be exercised, that said party will properly and fully guard all excavations and dangerous places, and will use all due and proper precautions to prevent injury to any property, person and persons, what or whomsoever. That for and during the period of the making of such improvement, and the period for which the same is to be maintained and kept in repair by the Contractor, the City shall be saved harmless from any and all liability whatsoever growing out of any injury or damage to property or persons because of any neglect or fault of the said Contractor, its agents or employees, in the execution of this contract or any matter connected therewith or related thereto and to pay any judgment with costs which may be obtained against said City, growing out of any such injury or damage.

To each of the conditions and stipulations in this contract, the undersigned bind themselves, their successors and assigns.

IN WITNESS WHEREOF, we the foregoing named parties hereunto set our hands this 6th day of July, 1983

ATTEST:

____
Corporate Secretary

HIPSKIND CONCRETE CORPORATION
BY: [signature]
ITS: President
Contractor, Party of the First Part.

City of Fort Wayne, By and Through:

[signature]

[signature] Betty R. Collins

____

____
Its Board of Public Works and Mayor.

ATTEST:
Helen O. Gochenour
Secretary and Clerk

6" Drive Approach	Fifteen dollars and fifty cents per square yard	15.50
Total	Forty-eight thousand, four hundred and thirteen dollars and forty cents	$48,413.40

The Contractor will furnish immediately a certificate from the Industrial Board of the State of Indiana that he has complied with Sections 5, 68, 69 of the Workmen's Compensation Act, approved March 14, 1929, in accordance with Section 14 of the Compensation Act (Acts 1929, page 545, being I.C. 22-3-2-1 et. seq.).

A copy of General Ordinance No. G-34-78 (as amended) concerning discriminating in employment under municipal contracts, is attached and incorporated herein by reference.

PAYMENT BOND

KNOW ALL MEN BY THESE PRESENTS: that

HIPSKIND CONCRETE CORPORATION
(Name of Contractor)

5502 MASON DRIVE, FORT WAYNE, INDIANA
(Address)

a ______________________________, hereinafter called Principal,
(Corporation, Partnership or Individual)

and FIDELITY & DEPOSIT
(Name of Surety)

and duly authorized to transact business in the State of Indiana, hereinafter called Surety, are held and firmly bound unto the City of Fort Wayne, an Indiana Municipal Corporation in the penal sum of FORTY-EIGHT THOUSAND, FOUR HUNDRED AND THIRTEEN DOLLARS AND FORTY CENTS for the payment whereof well and truly to be made, the Principal and the Surety bind themselves, their heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

THE CONDITION OF THIS OBLIGATION is such that whereas, the Principal entered into a certain contract with the Owner, dated the 6th day of July, 1983, for the construction of:

Improvement Resolution No. 5983-83 MEMORIAL PARK NEIGHBORHOOD, PHASE II

To improve curbs, sidewalks, and drive approaches where necessary as follows:

RANDALL ST. - Both sides from Grant Ave. to Glasgow Ave.
GRANT AVE. - Both sides from Maumee Ave. to Humphrey St.

at a cost of FORTY-EIGHT THOUSAND, FOUR HUNDRED AND THIRTEEN DOLLARS AND FORTY CENTS ($ 48,413.40), all according to Fort Wayne Street Engineering Department plans and specifications.

WHEREAS, said Surety, for value received, hereby stipulates and agrees that no change, extension of time, alteration, or addition to the terms of the contract or to the work to be performed thereunder, or the specifications accompanying the same, shall in any way affect its obligation on this bond, and it does hereby waive notice of any such change, extension of time, alteration or addition to the terms of the contract, or to the work or to the specifications, and

WHEREAS, no final settlement between the Owner and the Contractor shall abridge the right of any beneficiary hereunder, whose claim may be unsatisfied.

NOW, THEREFORE, if the Principal shall promptly make payment to all persons, firms, subcontractors, and corporations furnishing materials for or performing labor in the prosecution of the work provided for in such contract, and any authorized extension or modification thereof, including all amounts due for materials, lubricants, oil, gasoline, coal and coke, repairs on machinery, equipment and tools, consumed or used in connection with the construction of such work, and all insurance premiums on said work, and for all labor, performed in such work whether by subconstructor or otherwise, then this obligation shall be void; otherwise to remain in full force and effect.

IN WITNESS WHEREOF, this instrument is executed in ______ (number) counterparts, each one of which shall be deemed an original, this 6th day of July, 1983.

(SEAL)

ATTEST:

[signature]
(Principal) Secretary

HIPSKIND CONCRETE CORPORATION
Principal
BY [signature]
President
(Title)

(Address)

[signature]
Witness as to Principal
3415 [illegible] Dr.
(Address)
Ft Wayne, Ind.

FIDELITY & DEPOSIT
Surety
BY [signature]
Attorney-in-Fact
(Authorized Agent)

1928 INWOOD DRIVE
FORT WAYNE, IN 46815
(Address)

[signature]
Witness as to Surety
1928 INWOOD DRIVE
(Address)
FORT WAYNE, IN 46815

NOTE: Date of Bond must not be prior to date of Contract.
If Contractor is Partnership, all partners should execute bond.

ATTACH POWER OF ATTORNEY

PERFORMANCE AND GUARANTEE BOND

KNOW ALL MEN BY THESE PRESENTS, that we HIPSKIND CONCRETE CORPORATION as Principal, and the FIDELITY & DEPOSIT ____________________, a corporation organized under the laws of the State of ____________________, and duly authorized to transact business in the State of Indiana, as Surety, are held firmly bound unto the City of Fort Wayne, Indiana, an Indiana Municipal Corporation in the sum of FORTY-EIGHT THOUSAND, FOUR HUNDRED AND THIRTEEN DOLLARS AND FORTY CENTS -------------------------------- ($ 48,413.40------------), for the payment whereof well and truly to be made, the Principal and Surety bind themselves, their heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents. The condition of the above obligation is such that

WHEREAS, the Principal did on the 6th day of July, 1983, enter into a contract with the City of Fort Wayne to construct

Improvement Resolution No. 5983-83 MEMORIAL PARK NEIGHBORHOOD, PHASE II

To improve curbs, sidewalks, and drive approaches where necessary as follows:

RANDALL ST. - Both sides from Grant Ave. to Glasgow Ave.
GRANT AVE. - Both sides from Maumee Ave. to Humphrey St.

at a cost of $ 48,413.40--------- , according to certain plans and specifications prepared by or approved by the City.

WHEREAS, the grant of authority by City to so construct such improvement provides:

1. That said improvement shall be completed according to said plans and specifications, and contractor shall warrant and guarantee all work, material, and conditions of the improvement for a period of three (3) years from the date of final acceptance in writing by the Owner;
2. There shall be filed with the City, within thirty (30) days after completion, a Completion Affidavit;
3. Said Principal is required to agree to make such adjustments, modifications, and repairs as required by the City within thirty (30) days after notice.

WHEREAS, said Surety, for value received, hereby stipulates and agrees that no change, extension of time, alteration, or addition to the terms of the contract or to the work to be performed thereunder, or the specifications accompanying the same, shall in any way affect its obligation on this bond, and it does hereby waive notice of any such change, extension of time, alteration or addition to the terms of the contract, or to the work or to the specifications.

NOW THEREFORE, if the principal shall faithfully perform all of the terms and conditions required of it by the contract and shall for three (3) years after acceptance of said improvement by City warrant and guarantee said improvement and shall indemnify the City for all loss that City may sustain by reason of the Principal's failure to comply with any of the terms of the authorization, then this obligation shall be void, otherwise it shall remain in full force and effect.

HIPSKIND CONCRETE CORPORATION
(Contractor)

BY: [signature]

ITS: [signature]

ATTEST:

[signature]

[signature]
(Title)

FIDELITY & DEPOSIT
Surety

*BY: [signature]
Authorized Agent
(Attorney-in-Fact)

*If signed by an agent, power of attorney must be attached

ATTACH POWER OF ATTORNEY

BILL NO. S-83-07-33

REPORT OF THE COMMITTEE ON PUBLIC WORKS

WE, YOUR COMMITTEE ON Public Works TO WHOM WAS REFERRED AN ORDINANCE a-proving a Contract by the City of Fort Wayne by and through its Board of Public Works and Hipskind Concrete Corporation, for Res. #5983-83, Memorial Park Neighborhood, Phase II

HAVE HAD SAID ORDINANCE UNDER CONSIDERATION AND BEG LEAVE TO REPORT BACK TO THE COMMON COUNCIL THAT SAID ORDINANCE Do PASS.

SAMUEL J. TALARICO, CHAIRMAN	Samuel J. Talarico
VICTURE L. SCRUGGS, VICE CHAIRMAN	Victure Scruggs
MARK E. GiaQUINTA	Mark E GiaQuinta
PAUL M. BURNS	
ROY J. SCHOMBURG	Roy J Schomburg

Concurred in 8-3- S Hennedy/[illegible]

Admn. Appr. 6348

TITLE OF ORDINANCE Contract for Res. #5983-83 - Memorial Park Neighborhood, Phase II

DEPARTMENT REQUESTING ORDINANCE Board of Public Works S-83-07-33

SYNOPSIS OF ORDINANCE This contract for Improvement Res. #5983-83, Memorial Park is for Neighborhood, Phase II, improvement of curbs, sidewalks and drive approaches where necessary as follows: RANDALL ST. - Both sides from Grant Ave. to Glasgow Ave.; GRANT AVE. - Both sides from Maumee Ave. to Humphrey St. Hipskind Concrete, Contra

PRIOR APPROVAL RECEIVED 6/14/83

EFFECT OF PASSAGE Improvement of Memorial Park Neighborhood, Phase II

EFFECT OF NON-PASSAGE

MONEY INVOLVED (DIRECT COSTS, EXPENDITURE, SAVINGS) $48,413.40

ASSIGNED TO COMMITTEE